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Allowing Civilian Aid to Latin War Efforts:

Is It Legal?

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WASHINGTON, Sept. 9 — By condoning private efforts to support Nicaraguan rebels and El Salvador's armed forces, the Reagan Administration may have furthered its foreign aims, but also may have undermined Federal laws and the intent of Congress, according to Administration officials and Democratic lawmakers.

As information about the private efforts became public in recent days, officials and members of Congress said, it became clear that the Administration has done little to prevent activities of questionable legality, apparently because the activities were consistent with the Government's goals in Central America.

The activities included the donation of money to Nicaraguan rebels by private American citizens and corporations and the shipment of military equipment to the rebels and to El Salvador's armed forces by an Alabama-based veterans group called Civilian Military Assistance.

Administration officials who defended the Government's conduct said it was by no means clear that the support activities violated the law. They contended that any lack of response by the Administration was caused by a breakdown in coordination between Federal agencies rather than by a policy decision.

The Neutrality Act prohibits private support or participation in military expeditions against foreign governments that are at peace with the United States. Although relations between the United States and Nicaragua have been strained, the two countries continue to exchange ambassadors and remain officially at peace with one another.

Congress limited official United States aid to the rebels to \$24 million in 1984 and has turned down Administration requests for additional money.

Representative Michael D. Barnes, the Maryland Democrat who is chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, said, "It's all part of the Administration's effort to funnel assistance in any manner, even if it circumvents the law, to groups that seek to overthrow the Government of Nicaragua."

Senator Jim Sasser, Democrat of Tennessee, said, "There's a double standard. Agencies of the Government knew what was going on but looked the other way because the efforts were supportive of Administration policy. If they had been trying to help Libya they would have been quickly cut off."

The support efforts became the focus of attention after two members of the veterans group were killed when their helicopter was shot down in Nicaragua on Sept. 1 during a rebel air raid against a military training school in Santa Clara, near the Honduran border. The Reagan Administration has denied any connection to the raid or involvement in the participation of the two Americans who were killed.

Five Federal agencies — the State Department, the Defense Department, the Treasury Department, the Central Intelligence Agency and the Federal Bureau of Investigation — knew earlier this year that the veterans group was providing military equipment to the Salvadoran Army and Nicaraguan rebels, according to Administration officials and Defense Department documents.

The assistance to the Nicaraguan rebels was viewed by the F.B.I. as a possible violation of the Neutrality Act, a Justice Department official said. In April, he said, the Bureau notified the veterans group that it was skirting the border of criminal activity and opened an investigation into its activities.

Aid to Foes Discouraged

As a general policy, State Department officials said, the Administration has tried to discourage, and in some cases has outlawed, private American military assistance to unfriendly foreign powers, including Iran, Libya and Cuba.

It has also taken steps to protect friendly governments from outside interference by private groups in the United States. The Justice Department invoked the Neutrality Act in 1981 and 1982 to prosecute groups that it accused of plotting and training in the United States to overthrow the Governments of Haiti and the Caribbean island of Dominica.

In the case of Civilian Military Assistance, however, a number of Federal agencies did little to impede the group's activities, according to Administration officials and group members.

The first Federal agency to deal with the group was the Defense Department. During a visit to El Salvador last

October, the group's leader, Thomas V. Posey, received assistance from United States military officers at the United States Embassy. Mr. Posey is a former Marine who is a produce wholesaler in Decatur, Ala.

Meeting Reportedly Arranged

The officers, according to Mr. Posey and Defense Department records, arranged a meeting for Mr. Posey with the chief of staff of the Salvadoran Army, Col. Mario Reyes Mena, and took other steps to help him send military equipment to the Army.

Federal law bars military officers from acting as agents for private groups or corporations. The State Department said on Friday that it was investigating whether any laws or regulations had been violated by the American military officers in El Salvador.

The State Department itself became aware of the group's activities in January when the United States Embassy in El Salvador notified officials in Washington about the shipment of military equipment by Mr. Posey's group. Department officials said that although the group lacked a required license from the Department to transfer military articles abroad, no action was taken against Mr. Posey and his associates. The officials said no one checked to see if Mr. Posey had an export license until last week.

The Department asked the Customs Service last week to investigate whether Civilian Military Assistance had conformed with Federal laws governing the transfer of military supplies overseas.

Administration officials said the C.I.A. has known for months about the veterans group and its involvement with the Nicaraguan rebels. The officials said the agency has also been familiar with separate rebel efforts to raise money from private American citizens and corporations.

In both cases, the officials said, the C.I.A. indirectly encouraged the support activities because official United States aid to the rebels was diminishing due to Congressional opposition.